

Pub. Imp. _____
Govt. Gmt. _____
Emer. _____
IPO Required NO
P. Hrngs. _____
Pgs. 17
Filed: 11/18/03

Sponsored by: Griggs

First Reading: _____

Second Reading: _____

COUNCIL BILL NO. 2003 - 377

SPECIAL ORDINANCE NO. _____

AN ORDINANCE

1 AUTHORIZING the Director of Planning and Development to accept the dedication of the
2 public streets and easements to the City of Springfield as shown on the
3 Preliminary Plat of ASKREN MEADOW, generally located on Fender and
4 Dawn Avenues south of Division Street, upon the applicant filing and
5 recording a final plat that substantially conforms to the preliminary plat;
6 and authorizing the City Clerk to sign the final plat upon compliance with
7 the terms of this ordinance. (Planning and Zoning Commission and staff
8 recommend approval).
9 _____

10
11
12 WHEREAS, on November 6, 2003, the Planning and Zoning Commission of the City
13 of Springfield, Missouri, approved the preliminary plat of ASKREN MEADOW, generally
14 located on Fender and Dawn Avenues south of Division Street, as a subdivision of the City
15 of Springfield, Greene County, Missouri.

16
17 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
18 SPRINGFIELD, MISSOURI, as follows:
19

20 Section 1 - The City Council hereby authorizes the Director of Planning and
21 Development on behalf of the City of Springfield, Missouri, to accept the land or easements
22 dedicated to the City of Springfield for public use as shown on Exhibit "A," upon the
23 subdivider filing and recording a final plat in accordance with the Subdivision Ordinance of
24 the City, which plat shall substantially conform to Exhibit "A," and hereby authorizes
25 acceptance of the public improvements required by this ordinance and the Subdivision
26 Ordinance of the City, upon the Director of Public Works certifying to the Director of
27 Planning and Development and the City Clerk that the public improvements have been
28 made in accordance with City standards and specifications.
29

30 Section 2 - The final plat shall not be recorded until the public improvements set out
31 in the Planning and Zoning Commission report, relating to said plat shown as Exhibit "A,"
32 shall have been constructed by the person or party subdividing the property according to
33 the specifications of the City of Springfield, Missouri, and to the approval of the Director of
34 Public Works of the City; and provided that said party shall have paid to the City of
35 Springfield engineering fees, permit fees, licenses and other fees occasioned by the
36 construction of said improvements; or, in lieu of the construction of said improvements, that
37 said parties have filed with the City Manager, according to the terms of the Subdivision
38 Ordinance of the City, the prescribed financial assurances to insure the construction of said
39 improvements, and the payment to the City of Springfield of all engineering fees, permit
40 fees, licenses and other fees occasioned or which will be occasioned by the construction
41 of the improvements.
42

43 Section 3 - That upon compliance with all the requirements of this ordinance, the
44 City Clerk is hereby authorized to endorse the Council's approval upon the final plat
45 pursuant to Section 445.030, RSMo 2000.
46

47 Section 4 - That should said parties fail to submit a final plat for the subdivision or
48 portion thereof which substantially conforms to the preliminary plat within 730 days from
49 the date of this ordinance, then this ordinance shall be of no effect and shall be considered
50 void.
51

52
53 Passed at meeting: _____
54

55
56 _____
57 Mayor
58

59 Attest: _____, City Clerk
60

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62 Approved as to form: Marianne Anderson, City Attorney
63

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65 Approved for Council action: Finia, City Manager
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67
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Affected Agency Notified: Yes
Emergency Required: No
Budget Adjust. Required: No
IPO Required: No
Board Rec. Required: Yes
Public Hearing: No
Sponsor: Griggs
Date: November 7, 2003

EXPLANATION TO COUNCIL BILL NO. 2003 -

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To accept the dedication of the public streets and easements as shown on the Preliminary Plat of **ASKREN MEADOW**, generally located on Fender and Dawn Avenues south of Division Street. (Planning and Zoning Commission has approved the Preliminary Plat and both Commission and staff recommend that City Council accept the public streets and easements.)

BACKGROUND INFORMATION:

1. See the legal description set forth on the Preliminary Plat of **ASKREN MEADOW** dated October 7, 2003 attached as Exhibit A.
2. The Planning and Zoning Commission approved the applicant's request for a subdivision variance to not extend a public street to the western property line. The subdivision variance is reflected in the conditions of approval listed below.

RECOMMENDATIONS:

The Planning and Zoning Commission held a public hearing on November 6, 2003 and recommended approval of the proposed preliminary plat by a vote of 7 to 0, subject to the following conditions:

1. All improvements shall be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department and the maintenance and operation of such improvements shall be the responsibility of the developers unless approved by the Director of Public Works. All required sanitary sewer, street, sidewalk and drainage plans shall be prepared in accordance with City standards and specifications and approved by the Director of Public Works.
 - a. Sanitary sewers shall be extended to all building sites.
 - b. A ten (10) foot wide crosswalk shall be constructed connecting the

Dawn and Fender Avenue rights-of-way, as shown on Exhibit A.

- c. A swale or berm shall be constructed on the west and south sides of the property to carry stormwater runoff to the east. Discharge from the detention area must be to the property to the east indicated on the preliminary plat as being owned by Diane Pody.
2. All required street rights-of-way, drainage and utility easements and limitations of access shall be dedicated on the final plat.
 - a. The applicant shall not be required to extend a public street to the western property line.
 - b. A ten (10) foot wide sidewalk easement shall be dedicated connecting the Dawn and Fender Avenue rights-of-way for the required crosswalk as shown of Exhibit A.
 - c. Drainage easements shall be dedicated on the west and south sides of the property to carry runoff to the east. A downstream drainage easement is required from the property indicated on the preliminary plat as being owned by Diane Pody. This downstream easement must be obtained prior to the recording of a final plat for any part of the subdivision.
3. The developer shall meet all city and state erosion control regulations prior to disturbing the soil.
4. The developer shall be responsible for the relocation costs of any existing utility services and shall be responsible for clearing all utility easements of trees, brush and overhanging tree limbs.
5. It is determined that the public interest requires assurance concerning adequate maintenance of common space areas and improvements. The restrictive covenants, rules and bylaws creating the common ownership must therefore provide that if the owners of the Property Owners Association shall fail to maintain the common areas or improvements in reasonable order and condition in accordance with the approved plans, the City may, after notice and hearing, maintain the same and assess the costs against the units or lots, per the Common Open Space and Common Improvement Regulations section of the Zoning Code.
6. All other requirements which are necessary for this subdivision to be in compliance with the *Subdivision Regulations*.

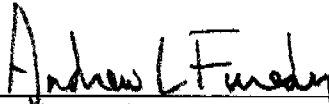
All required improvements shall be the sole responsibility of the subdivider. As prescribed by Section No. 300 of the Subdivision Regulations, the improvements shall be made or guaranteed by means of bond or escrow agreement. Release of the final plat for recording

shall be withheld until the subdivider has complied with this section.

Section No. 206 of the Subdivision Regulations requires that a final plat be submitted within two years of City Council's approval of the Preliminary Plat.


Attached for Council information is a sketch showing the location of the plat area, an exhibit showing the proposed plat, and a copy of the Planning and Development Department staff report to the Planning and Zoning Commission.

Submitted by: _____



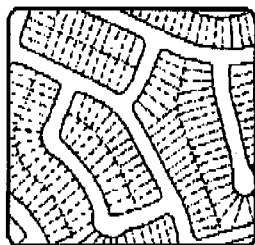
Planning and Development

Approved by: _____



City Manager

askren_exp.wpd



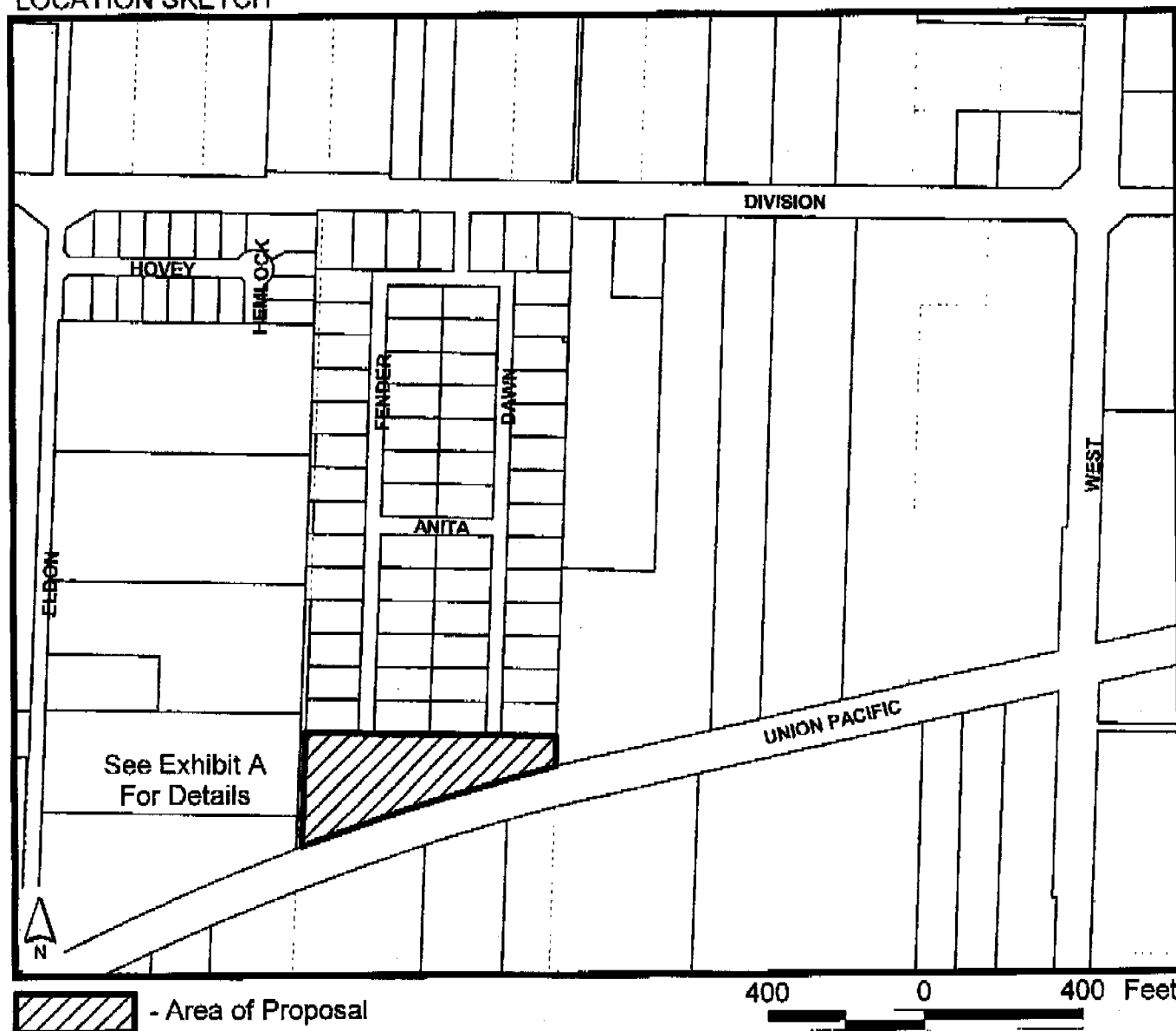
Zoning & Subdivision Report

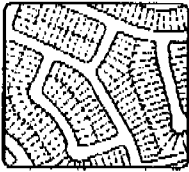
Planning & Development - 417/864-1611
840 Boonville Avenue - Springfield, Missouri 65801

Preliminary Plat - Askren Meadow

Location: 1200 Blocks North Dawn and Fender Avenues

LOCATION SKETCH





Zoning & Subdivision Report

Planning & Development Department - 417/864-1611
840 Boonville Avenue - Springfield, Missouri 65801

PRELIMINARY PLAT - ASKREN MEADOW

DATE: October 28, 2003

PURPOSE: To approve a preliminary plat to subdivide less than 2½ acres into an eight lot single-family residential subdivision, including a request for a subdivision variance to not extend a public street to the western property line.

BACKGROUND:

LOCATION: 1200 blocks North Dawn and North Fender Avenues

APPLICANT: Larry and Heidi Askren

TRACT SIZE: 2.44 acres

EXISTING USE: Undeveloped land

PROPOSED USE: An eight lot single family residential subdivision

RECOMMENDATION:

The request be **approved**, provided that Planning and Zoning Commission finds that the standards for subdivision variance approval have been met and, if approved, the conditions listed below shall govern and control the subdivision of the land shown on Exhibit A, and staff recommends that City Council accept the public streets and easements.

If the Planning and Zoning Commission decides to deny the subdivision variance and require the street extension to the western property line, the preliminary plat must be tabled and the public hearing continued to allow the preliminary plat to be redrawn to show the new right-of-way configuration.

FINDINGS:

1. If the Planning and Zoning Commission approves the applicants' request for a subdivision variance, the applicants' proposal, with the conditions listed below, is consistent with the City's *Subdivision Regulations*.
2. If the Planning and Zoning Commission does not approve the applicants' request

for a subdivision variance, the preliminary plat is not consistent with the *Subdivision Regulations* and must be redrawn to include the street connection to the western property line.

CONDITIONS:

1. All improvements shall be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department and the maintenance and operation of such improvements shall be the responsibility of the developers unless approved by the Director of Public Works. All required sanitary sewer, street, sidewalk and drainage plans shall be prepared in accordance with City standards and specifications and approved by the Director of Public Works.
 - a. Sanitary sewers shall be extended to all building sites.
 - b. A ten (10) foot wide crosswalk shall be constructed connecting the Dawn and Fender Avenue rights-of-way, as shown on Exhibit A.
 - c. A swale or berm shall be constructed on the west and south sides of the property to carry stormwater runoff to the east. Discharge from the detention area must be to the property to the east indicated on the preliminary plat as being owned by Diane Pody.
2. All required street rights-of-way, drainage and utility easements and limitations of access shall be dedicated on the final plat.
 - a. The applicant shall not be required to extend a public street to the western property line.
 - b. A ten (10) foot wide sidewalk easement shall be dedicated connecting the Dawn and Fender Avenue rights-of-way for the required crosswalk as shown of Exhibit A.
 - c. Drainage easements shall be dedicated on the west and south sides of the property to carry runoff to the east. A downstream drainage easement is required from the property indicated on the preliminary plat as being owned by Diane Pody. This downstream easement must be obtained prior to the recording of a final plat for any part of the subdivision.
3. The developer shall meet all city and state erosion control regulations prior to disturbing the soil.
4. The developer shall be responsible for the relocation costs of any existing utility services and shall be responsible for clearing all utility easements of trees, brush and overhanging tree limbs.

5. It is determined that the public interest requires assurance concerning adequate maintenance of common space areas and improvements. The restrictive covenants, rules and bylaws creating the common ownership must therefore provide that if the owners of the Property Owners Association shall fail to maintain the common areas or improvements in reasonable order and condition in accordance with the approved plans, the City may, after notice and hearing, maintain the same and assess the costs against the units or lots, per the Common Open Space and Common Improvement Regulations section of the Zoning Code.
6. All other requirements which are necessary for this subdivision to be in compliance with the *Subdivision Regulations*.

If the request is recommended for denial by the Commission and the applicant requests City Council consideration, all the above conditions, plus any amendments made by the Planning and Zoning Commission, shall be included in the Council Bill.

STAFF CONTACT PERSON:

K. A. Giles
Associate Planner
(417) 864-1614

askrenncad.wpd

ATTACHMENT A
BACKGROUND REPORT
PRELIMINARY PLAT - ASKREN MEADOW

APPLICANT'S PROPOSAL:

The applicant proposes to subdivide 2.44 acres into an 8 lot single-family residential subdivision. The applicants' proposal includes a request for a subdivision variance to not extend a public street to the western property line.

SANITARY SEWER COMMENTS:

1. Public sanitary sewer must be extended to each lot from the north.

CITY UTILITIES COMMENTS:

1. The easements shown for extension of gas, water and electric facilities in the proposed subdivision are acceptable.
2. If not already present, easements will be required across the street frontage and the back side of Lots 21, 22, 47 and 48 just north of this proposed development.

STAFF COMMENTS:

1. Staff required the developer to provide a street connection to the western property line because staff's opinion is that the property to the west is susceptible to rezoning to single family and subdivision in the future. Even though the property to the west is currently zoned GM, General Manufacturing, staff believes there is a precedent for rezoning the property to R-SF and subdividing the property into a single-family subdivision. A 5 acre property at the southeast corner of Division and Eldon and the four tracts to the south of it were rezoned from GM to R-SF in 1995 and Mary's Place was recorded in 1997, subdividing the 5 acre property into single family lots. Taking a long range view, it is not unreasonable to suspect that further subdivisions for single family residences is likely in this area, including the GM tract to the west of the proposed subdivision.
2. Also, the proposed subdivision and the residential subdivision to the north have access only from Division Street. Staff is not concerned with providing the GM property with additional access, but rather with providing a future second point of access for the subject property and the residential subdivision to the north.
3. If the Planning and Zoning Commission approves the applicant's request for a subdivision variance to not extend a public street to the western property line, then the applicant's request is consistent with the City's *Subdivision Regulations*.
4. If the Commission does not approve the applicant's request, the preliminary plat should be tabled to allow the preliminary plat to be redrawn so that the right-of-way will appear

in the correct configuration when the preliminary plat is forwarded to City Council to accept the easements and rights-of-way.

**ATTACHMENT B
STREET SYSTEM REPORT
PRELIMINARY PLAT - ASKREN MEADOW**

STREET SYSTEM:

STREET	FUNCTIONAL CLASS	EXISTING R.O.W.	REQUIRED R.O.W.	R.O.W. DEDICATION	IMPROVEMENTS REQUIRED
Fender	Local	50 ft.	50 ft. radius on cul-de-sac	50 ft. radius on cul-de-sac	Improve to City Standards
Dawn	Local	50 ft.	50 ft. radius on cul-de-sac	50 ft. radius on cul-de-sac	Improve to City Standards

TRAFFIC ENGINEER:

1. Traffic Engineering does not support this subdivision configuration with two cul-de-sac design nor the variance. (See Attachment D for full comments.)

ACCESS TO ADJOINING STREETS:

1. All driveways shall be in accordance with the City's driveway regulations.

SIDEWALKS:

1. As there will not be a street connection between Dawn and Fender, there should at least be a crosswalk connection. The crosswalk would need to be 10 feet wide in a sidewalk easement. The applicant has agreed with this requirement and the crosswalk is shown on the plat.

**ATTACHMENT C
DRAINAGE REPORT
PRELIMINARY PLAT - ASKREN MEADOW**

SITE ANALYSIS:

The City's records indicate that there are no sinkholes or 100-year floodplain located on the subject property.

DRAINAGE IMPROVEMENTS:

1. There must be drainage easements and a swale or berm on the west and south sides of the property to carry runoff to the east.
2. The developer must provide storm water detention area in accordance with City standards. Public Works is not in favor of allowing the developer paying a fee in lieu of constructing detention due to downstream flooding issues. The area east of Dawn Avenue will be the detention area and must be labeled common area and drainage easement. The common area must be owned and maintained by a property owner's association.
3. Discharge from the detention area must be to the property to the east owned by Diane Pody, not onto the Rainwater property where there is an existing home. A downstream drainage easement must be obtained from Ms. Pody. This easement must be obtained before the final plat can be recorded.

ATTACHMENT D
APPROVAL CRITERIA
PRELIMINARY PLAT - ASKREN MEADOW

The applicant is requesting a subdivision variance to the requirement to extend a public street to the western property line.

The applicant states: "Access to Askren Meadow Subdivision is through an existing residential neighborhood, with property values ranging from \$55,000 to \$70,000. The original design for this land was to install 2 cul-de-sacs where Dawn and Fender dead end, providing 9 lots that were uniform in size and comparable to the existing neighborhood. Cost estimate for this project was \$12,618.63 per lot. Lots would sell for \$16,500 to \$17,900.

The staff's recommendation of installing a new East/West residential street to connect Dawn and Fender and extend to the west to a property zoned General Manufacturing was taken under advisement and plans were re-drawn. This design reduced the size and uniformity of the lots and made them less attractive for potential buyers. Costs increased to \$16,472.41 per lot.

Staff's next recommendation was to eliminate the street connecting Dawn and Fender, keeping the 2 cul-de-sacs, installing a sidewalk connecting the two cul-de-sacs and installing a new East/West street from the Fender cul-de-sac to the property zoned General Manufacturing. This design reduced the number of lots to 8. The cost per lot was \$14,944.54.

Staff's request for the new East/West street was based on the possibility that the property for General Manufacturing may someday be re-zoned for residential. The existing GM property has adequate access with frontage on Eldon Street and has other possible access from property to the north. This GM property currently has an established business on the property operating as a construction company.

This requirement to connect the residential property to the General Manufacturing property puts an undue burden on the project, reduces the number of lots, increases the cost per lot, making this project undevelopable based on a hypothetical situation that may or may not happen in the future.

We further suggest that nothing in the *Subdivision Regulations* requires the applicant to extend a street to the property to the west. Section 403, Subsections 3 and 4 of the Subdivision Regulations address a situation where the adjoining property is not subdivided. However, the adjoining property to the west is subdivided."

Section 106 of the *Subdivision Regulations* state in part:

Conditions of Variance Approval. No variance shall be granted unless it is found that:

- (a) There are special and unusual circumstances affecting said property such that the strict application of the provisions of this Article would deprive the owner of the reasonable use of his land and is not the mere granting of a privilege, and

APPLICANT'S RESPONSE:

There are special and unusual circumstances affecting the applicant's property such that the strict application of the provisions of the *Subdivision Regulations* would deprive the owner of the reasonable use of his land, therefore the request is not a mere grant of a privilege. The special and unusual circumstances are that if the property is to be developed with lots in approximately the same size as the adjoining neighborhood, which is a normal and usual subdivision process, there is only a modest profit per lot, even if the variance is granted. If the variance is not granted, the cost per lot of the development is so substantial that the property cannot be reasonably developed. Therefore, a reasonable use of the applicant's land cannot occur unless the variance is granted.

- (b) The variance is necessary for the preservation and enjoyment of a substantial property right of the owner, and

APPLICANT'S RESPONSE:

The variance request is clearly necessary for the preservation and enjoyment of a substantial property right of the owner, i.e. the right to develop the property in a reasonable manner and to make reasonable use of the applicant's land. Applicant is not asking to change the zoning. The applicant is not asking for an unusually dense development in order to try and enhance the applicant's profits. Instead, the applicant is seeking to make a reasonable use of the property by submitting a subdivision containing a reasonable number of lots, reasonably sized, for the neighborhood, and reasonably priced considering the land values in the neighborhood.

- (c) The granting of the variance would not be detrimental to the public safety, convenience or welfare or be injurious to other property in the vicinity.

APPLICANT'S RESPONSE:

Nor would the granting of the variance be detrimental to the public safety, convenience, welfare or be injurious to the other property in the vicinity. Access to the property to the west can be secured from the street upon which that property fronts. The property is already developed in a business manner. It would be injurious to the applicant's property were the business uses of the adjoining land to take access through applicant's residential subdivision. Nor is it desirable that the business usage to the west experience residential traffic moving through the industrial tract. There is no indication that the public safety is involved in this whatsoever. There is no indication that the welfare of the public is an issue in this instance.

The Planning and Zoning Commission must first decide if all of these conditions are met

before this variance can be approved.

STAFF RESPONSE:

1. Traffic Engineering does not support this subdivision configuration with two cul-de-sac nor the variance. Traffic Engineering supports the extension of the western cul-de-sac to the western property line to allow for a future west and south movement of traffic through this entire subdivision and provide connectivity to the future development of the adjoining lots. Currently, the only entrance and exit for the residential area is off of Division Street which is unimproved.
2. The applicant maintains that the *Subdivision Regulations* relates only to property which has not be subdivided and that the property to the west has been subdivided. This is not totally correct. The *Subdivision Regulations* state "when a new subdivision adjoins unsubdivided land susceptible to being subdivided, new streets shall be carried to the boundaries of such tract." Staff maintains that the property to the west is susceptible to being rezoned and subdivided as was the 5 acre tract at the southeast corner of Division and Eldon. That property and the four tracts to the south of it were rezoned from GM to R-SF in 1995. If the property to the west is rezoned and subdivided, there needs to be a street connection between the proposed subdivision and the property to the west. While the property to the west is zoned manufacturing, Traffic Engineering will not allow that property to take access to the stub street, so there is no danger of manufacturing traffic driving through the residential subdivision.
3. Staff has tried to work with the applicant to come up with a workable design that meets the *Subdivision Regulations* without taking up too much of the land with right-of-way. Staff originally requested that there be a street connection between Dawn and Fender and extending to the western property line (see Exhibit B), but revised the request to delete the street connection between Dawn and Fender (see Exhibit C). The applicant prefers Exhibit A, with the two cul-de-sacs.
4. There are two properties adjacent to the west of the proposed subdivision. Both are currently owned by the same person. There is a house on the northern tract and the construction company is located on the southern tract.
5. Staff's opinion is that the subdivision could be redrawn with smaller lots and still achieve the same number of lots with the street extension.